

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANNY CARDENAS, G36254,

Plaintiff,

v.

CALIFORNIA,

Defendant(s).

Case No. [20-cv-07538-CRB](#) (PR)

ORDER OF DISMISSAL


On February 2, 2021, the court dismissed plaintiff's "confusing if not outright unintelligible" prisoner complaint under 42 U.S.C. § 1983 with leave to amend to file a simple and concise amended complaint that makes clear "who is being sued, for what relief, and on what theory" ECF No. 11 at 1, 2 (citation and internal quotation marks omitted). And because the complaint appears to be directed at a host of private individuals, the court reminded plaintiff that "a private individual does not act under color of state law, an essential element of a § 1983 action." *Id.* at 2 (citing *Gomez v. Toledo*, 446 U.S. 635, 640 (1980)).

On February 18, 2021, plaintiff filed an amended complaint the clerk docketed as a letter. *See* ECF No. 12. The amended complaint makes clear that plaintiff's allegations are directed at "Crystal Ann Cardenas," a private individual who he claims falsely accused him of "touch[ing] her 3 year old privately totally false." *Id.* at 1. But because purely private conduct, no matter how wrongful, is not covered under § 1983, *see Outzs v. Maryland Nat'l Ins. Co.*, 505 F.2d 547, 550 (9th Cir. 1974), plaintiff's allegations fail to state a claim upon which relief may be granted and this action must be DISMISSED with prejudice under the authority of 28 U.S.C. § 1915A(b).

The clerk is directed to close the file and terminate all pending motions as moot.

IT IS SO ORDERED.

Dated: March 11, 2021


CHARLES R. BREYER
United States District Judge